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10/654,821	09/04/2003	George H. Forman	200309653-1	5191
22879 7590 07/14/2009 HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400				
EXAMINER				
STACE, BRENT S				
ART UNIT		PAPER NUMBER		
2161				
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07/14/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM

ipa.mail@hp.com

jessica.l.fusek@hp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: GEORGE H. FORMAN

Application No. 10/654,821
Technology Center 2161

Mailed: July 13, 2009

Before DELORES LOWE, *Review Team Paralegal*
LOWE, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on February 15, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

APPEAL BRIEF, CLAIMS APPENDIX

A review of the Appeal Brief filed March 5, 2007 reveals that claims 7 and 12 in the Claims appendix of the Appeal Brief are not consistent as amended in the last entered amendment filed on June 13, 2006. The copy of the claims should be in proper format and should not include any markings such as brackets or underlining except for claims in a reissue application in accordance with 37 CFR 41.37(c)(1)(viii). Furthermore, the Claims Appendix cannot assume entry of After Final Submissions for which an Advisory Action (or other Office communication) has not advised of entry. *See also Manual of Patent Examining Procedure* (MPEP) § 1205.02 (8th ed. Rev. 6, Sept 2007) for details.

Specifically, claim 7, as provided in the Brief's Claims Appendix, reads: "... predetermined particular characteristic of a selected [[one]] one of said first members [[or]] and said second members" and claim 12 reads: "... first and second items has a predetermined unique"

However, in the last entered Amendment dated June 13, 2006, claim 7 reads: "... predetermined particular characteristic of a selected [[one]] one of said first members [[or]] and said second members" and claim 12 reads: "... first and second items has a predetermined unique characteristic". Appropriate correction of all claims provided in the Claims Appendix in proper format is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) to hold the Appeal Brief defective, and require the Appellant to file a “paper” correcting the Appendix of Claims;
- 2) to acknowledge and consider any “paper” filed to correct the Appeal Brief, Appendix of Claims 7 and 12; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

/DAL/

HEWLETT PACKARD COMPANY
P.O. BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400